insolvent laws and not the bankruptcy laws; that, prior to the nineteenth century, for the debtor to procure a friendly creditor to file a petition in bankruptcy in order that the debtor might obtain a discharge was called a fraud on the statute; that in *Nelson* v. *Carland*, 1 How. 265, the constitutionality of voluntary bankruptcy in the United States was drawn in question on the ground that no such proceedings were known at the time when the Constitution was adopted, escapes the author. So that although the résumé of the successive bankruptcy statutes is given, the effect of them is not clearly perceived.

Moreover, there is little indication of any examination of English bankruptcy decisions. The development, which was not statutory in its origin, of the most characteristic doctrine of bankruptcy, that of preference, is hardly touched upon.

A comparatively full account of colonial legislation and practice and of the proceedings in the Constitutional Convention is given, and the latter half of the book summarizes briefly the four successive bankruptcy statutes of the United States.

The lack of an index must be noted as a final criticism.

SAMUEL WILLISTON.

THE UNSOUND MIND AND THE LAW. By George W. Jacoby, M.D. New York: Funk & Wagnalls. 1918. pp. v, 424.

To the student of the law the title of this book is a signpost on a path to disappointment; for upon the problems that have vexed the lawyer through the generations the book sheds little or no light and for their solution it offers no constructive suggestion. Indeed, whatever may be its merits as a textbook for psychiatric experts, — and the authority of the author in his own field warrants the assumption that those merits are great, — its relation to the juristic aspects of the problems is slight.

Such interest as it may have for the lawyer arises primarily from the clarity of its style. For a book devoted to a series of topics so highly technical as the causes and conditions of mental aberration, the methods and technique of diagnosis, the symptoms and effects of the various types of mental diseases and anomalies, it is unusually readable, and its fifty odd pages devoted to the development of the science of psychiatry from the days of Hippocrates make interesting reading for those in search of general information. Yet the absence of a glossary of the medical terms with which it is inevitably interspersed renders it doubtful whether it will serve as the instrument for the enlightenment of the lay (non-medical) public for which, as appears from the introduction, it was designed.

The omission of such a glossary is an instance of the rather remarkable defect of imagination which, on the assumption that the book was designed for the purposes which its title and introduction suggest, characterizes it as a whole; for the author seems strangely oblivious of the nature of the juristic problems involved in the ascertainment of mental states and in the determination of their relation to the capacity or responsibility of the individual whose acts are the subject of litigation. Rather curiously, he seems to suppose that what he terms the "inadequacies or inequities of the partly antiquated law" result solely from the ignorance and perversity of the lawyers, and to imagine that, through the generations, jurists and practitioners have resolutely shut their eyes to the discoveries of the psychiatrists and have refused to concern themselves with the problem of adjusting substantive law and procedure to the advance of the science.

"Why is it," he says, "that psychiatry, which could and should be of so

great aid to the jurists, is as yet inadequately appreciated by judges and lawyers?" and replies, "The answer to these questions is that *all* laymen — and jurists are laymen in this regard — notwithstanding all efforts to enlighten them, still remain *entirely ignorant concerning mental disease and are prejudiced against occupying themselves in any way with the questions it involves*" (p. 7). Is it possible that he is unfamiliar with the mass of legal literature on the subject, or that he is ignorant even of so widely known and voluminous a text-book as that of "Wharton and Stiles," which, whatever its merits or demerits, makes it plain, at least, that jurists are not prejudiced against occupying themselves with the questions involved.

Similarly, while he "admits that even the most ideal law cannot fully accord with all the requirements of medical science," and concedes that "social order demands a more or less categorically incisive legal treatment which in individual cases may act as a hardship, occasionally even as an injustice," he shifts the obligation to prevent such hardship and injustice upon the shoulders of "our law makers" (p. v) and would seem to be oblivious of an obligation resting upon the medical profession, as a body, to coöperate, by constructive suggestion, in the search for definitions and procedure which will tend to bring the administration of the law into accord with the conclusions of the scientists, without ignoring the demand for such "categorical definition and incisive treatment as the social order demands."

Apparently he conceives that the duty of the psychiatrist and the neurologist is discharged when they have promulgated their conclusions as to the origin, nature, and methods of detection of mental aberrations, and that it is no part of their obligation to devise and suggest the means whereby the existence or non-existence of such derangement may best be ascertained, and its relation to responsibility or capacity in the particular be determined; for of concrete suggestion on those heads the book contains hardly a line.

Moreover, it is remarkable that a forensic psychiatrist should have failed to appreciate that the greatest obstacle to reliance upon expert opinion in cases involving mental states lies in the distrust with which the testimony of the alienist is commonly received, and that he should ignore the substantial character of the foundation for that distrust. This aspect of the problem he dismisses with the observation that "the cry that psychiatrists believe it proper to aid guilty persons to escape merited punishment by endeavoring to prove them insane is, of course, unjust" (p. 6), a statement which is doubtless strictly accurate, if due weight be given to the words "believe it proper" and "merited." But certainly the author knows that nearly every litigation in which the question of mental condition is involved presents — if the litigants can afford the cost — the spectacle of two groups of equally distinguished psychiatrists testifying to mutually contradictory conclusions and each exercising a degree of ingenuity in advocacy of which a lawyer would be proud — or ashamed — in the effort to establish the consistency of the evidence with the thesis it conceives itself to have been paid to advocate.

And surely it does not require his especial qualifications as a psychologist to recognize that the laymen (including lawyers and judges) who are accustomed to view or to assist in those conflicts of wits can draw from them only one of two conclusions: either that psychiatric knowledge has not progressed to the point at which expert opinion constitutes anything more than a guess camouflaged by an unfamiliar vocabulary, or that psychiatrists are subject to bias through the spirit of advocacy or of self-interest to a point which renders their testimony negligible. Certainly a more imaginative and constructive treatment of the subject would have taken into account this condition of the lay mind, and would have recognized that, until the forensic psychiatrist is rehabilitated in public opinion to the point where his testimony as a witness will receive the same respect as is ordinarily accorded to his opinion as a consultant, there can

be little hope of securing, and possibly less reason for seeking, a procedure which will accord to him any greater influence in the determination of litigated questions than he is now accorded.

Meanwhile it is questionable whether progress toward such rehabilitation is achieved through advocacy of the doctrine that it is the duty of the psychiatrist to shape the law to his own concept of what it should be by "interpretations" that nullify the law as it is and to divert the jury from the issues which the court is called upon to submit.

It is possible that the author of the "Unsound Mind and the Law" did not intend to preach so casuistic a doctrine. But in view of the illustration whereby he fortifies his preachment in the following statement, I can construe it no otherwise (p. 6):

"The physician is bound by the teachings of science, and the crass antagonism between these teachings and the antiquated views of the law that so often manifests itself can but exert a beneficial and modernizing influence upon the interpretation of the laws as they exist. This becomes the more evident when we consider that, after all, it is upon the lay judges (the jury) and not upon the professional judge that the decision of guilt or innocence devolves; and in forming an opinion they as a rule will be governed less by the letter of the law than by ordinary common sense, and, therefore, will be more easily influenced by the arguments of the psychiatric expert. How each individual case may be affected by the interpretation that is given to the law is shown by the fact that, while according to the existing statutes in certain states, an attempt at suicide is a punishable offense, it is most rarely punished, even in the absence of any suspicion of mental disorder." H. S. G.

THE BENCH AND BAR OF ENGLAND. By J. A. Strahan. London: William Blackwood & Sons. 1919. pp. x, 256.

This readable little book consists of some ten chapters, each in itself really a little essay on some phase of legal life. The book aims to be amusing rather than educational; there are many entertaining anecdotes with occasional brief sketches on matters of legal history. The author entered the Middle Temple over forty years ago, consequently his account of certain aspects of legal life deal with the past, and may with advantage be compared with conditions of to-day. Perhaps the most interesting chapters are those entitled "Counsel and Students," "Young Life in the Middle Temple," and "The Life of a Lawyer."

It is to be remembered that in England the legal profession is divided into two branches, solicitor and barrister, the former preparing the case, the latter advising on difficult points of law and presenting it in court. The distinction is shown vividly and briefly by a discussion overheard between the usher of the Middle Temple Hall and an American lady. The usher, after a lengthy peroration which seemed unsuccessful in conveying to the lady's mind the difference between the two ended in desperation, "Well, it's like this, a solicitor and a barrister cannot live in the same street."

There are now only four Inns of Court left, Sergeants' Inn and the Inns of Chancery having ceased to exist. The governing body of each of these Inns of Court consists of Benchers who are eminent members of the "Senior" or "Junior" Bar. Appointments to vacancies in the Bench are filled by the existing members of it; it is a custom for all judges of the High Court to be members thereof. The management of the Inn and the admission and the examination and call of students to the Bar are within the sole discretion of the Benchers of each inn. It is interesting to remember that the late Mr. J.